

MURRAY LAW FIRM
SUITE 2150 POYDRAS CENTER
650 POYDRAS STREET
NEW ORLEANS, LOUISIANA 70130

STEPHEN B. MURRAY †
PATRICIA RIVET MURRAY
STEPHEN B. MURRAY, JR.
ARTHUR M. MURRAY *
NICOLE IEYOUB-MURRAY
JESSICA W. HAYES
ROBIN MYERS
TIMOTHY BROWN **
CAROLINE W. THOMAS
D. ALEX ONSTOTT
DEVIN A. LOWELL

TELEPHONE (504) 525-8100
1-800-467-8100
FAX (504) 584-5249
www.murray-lawfirm.com

OF COUNSEL

WILLIAM W. GOODELL, JR., LL.M.
ENERGY AND ENVIRONMENT

† CERTIFIED AS A SPECIALIST IN CIVIL
TRIAL ADVOCACY BY THE NATIONAL
BOARD OF TRIAL ADVOCACY

* LICENSED IN LA & TX

** LICENSED IN LA, FL, GA & MS

January 8, 2016

The Honorable Charles R. Breyer
United States District Judge
Courtroom 6, 7th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

**Re: 3:15-md-02672-CRB: In re: Volkswagen "Clean Diesel" Marketing, Sales
Practices, and Products Liability Litigation
DEALER TRACK LEADERSHIP APPLICATION**

Dear Judge Breyer:

With unanimous support of all counsel for the independent automobile dealers with suits in this MDL, I request appointment to serve as Co-Lead Counsel of a dealer track tasked with representing the unique interests of dealer plaintiffs (hereinafter "Dealer Track"). As Your Honor noted at the recent status conference, while many issues are common to all plaintiffs, dealer plaintiffs' claims present sundry issues distinct from those of consumers, and the interests of all claimants will be furthered by representation of dealer interests in the court-appointed leadership. I and all other counsel for independent automobile dealers (as well as a number of attorneys for dealers with Lanham Act claims) who have cases filed in this MDL agree that the unique needs of the dealer plaintiffs necessitate a separate leadership structure for dealer claims, comprised entirely of counsel for dealers, to work in cooperation with the

leadership structure that this Court puts in place for coordination of consumer interests.¹

Other counsel for dealer plaintiffs and I have been working together from the outset of this litigation to further the unique interests of the dealers, and we have agreed among ourselves to an efficient leadership structure for dealer claimants to work hand in hand with court-appointed counsel for other plaintiff interests. As the Court will see in the attached appendix A, Statement of Support, a considerable number of those applying for leadership positions in the consumer cases support both this suggested approach and the dealer leadership structure proposed here.

I humbly submit that, as the counsel for dealers have all agreed, I have the skills and resources necessary to serve as Co-Lead Counsel for the dealer interests. I have over fourteen years of litigation experience as trial counsel in mass actions and class actions throughout the United States, and have litigated at all district and appellate levels. I have received an AV® Preeminent™ rating from Martindale-Hubbell, and have been included in the Rising Star (Class Action category) of Louisiana Super Lawyers since 2014.

I have served as court-appointed counsel in numerous class actions and mass actions, including appointments to lead counsel positions. I was Lead Counsel in *Guidry v. American Public Life Ins. Co.*, which involved the underpayment of cancer policy benefits and resulted in a substantial national class settlement that had only two opt-outs. I served as appellate counsel in *Grefer v. Alpha Technical, Inc.* which, to date, stands as the largest single plaintiff punitive damage judgment ever upheld on appeal in the State of Louisiana. I served as class counsel in the Louisiana PPO litigation (*Gunderson v. F.A. Richard and Assoc., Inc.* and the related cases which followed), helping thousands of health care providers collect more than \$300,000,000 over a ten year span. The Honorable John Z. Lee recently appointed me to serve as Co-Lead Counsel in the *Kmart Data Breach* class action in the Northern District of Illinois. To date, I have overseen 21 certified class actions (both merits and settlement).

I have been actively involved in MDL litigation throughout my career, and have been appointed to serve on several plaintiffs' steering committees. The Honorable Thomas W. Thrash, Jr. of the Northern District of Georgia appointed me to serve as a member of the Plaintiffs Steering Committee in the *Home Depot Data Breach MDL* (MDL 2583). I was also recently appointed to serve on the PSC in *In Re Zofran* (MDL 2657) by the Honorable F. Dennis Saylor, Jr. of the District of Massachusetts.

While I am licensed to practice in Louisiana and Texas, and my firm is located in New Orleans, Louisiana, I and my family have recently taken up full time residence in Healdsburg, California. This location gives me ready access to the Court (just over an hour drive) and the ability to commit considerable time to the case efficiently without incurring extensive travel costs. Yet, with my firm located in Louisiana, I can also provide resources and expertise from the Gulf Coast region of the country.

¹ Dual tracks with separate leadership structures can, and do, work in practice. See e.g. *In re: Target Corporation Customer Data Security Breach Litigation* (0:14-md-02522) and *In Re: The Home Depot, Inc., Customer Data Security Breach Litigation* (1:14-md-02583).

I understand that any application would be personal, and that I must undertake fulfillment of court-appointed duties myself. However, I will also put the full resources of my firm toward this litigation effort, a firm that has been involved in complex litigation for over four decades. My firm has experience of particular use to this litigation. Murray Law Firm has extensive experience in the area of automotive defect class actions, having served as court-appointed counsel in the *In re Ford Bronco II* MDL (Eastern District of Louisiana, Hon. Morey Sear) and the *In re Ford Paint* MDL (Eastern District of Louisiana, Hon. Sarah Vance). Additionally, the firm was tasked with establishing the liability of a German parent company for claims involving its wholly-owned American subsidiary in the *In re Sulzer Hip Implant* MDL (Northern District of Ohio, Hon. Kathleen O'Malley). This unique expertise could prove critical in this litigation as establishing jurisdiction over and liability of Volkswagen AG may well become issues, particularly with respect to the Dealer Track where an early resolution is perhaps not as likely as it is for the Consumer Track. My firm's eleven attorneys, and its institutional knowledge of complex matters presented in this lawsuit will be fully committed to representing the dealer interests.

As I trust the support of my numerous colleagues who represent both dealers and consumers will attest, I am able to work well with other attorneys in massive litigation efforts. I also trust that counsel for defendants in any of the certified class actions in which I have served would confirm that, while I represent my clients' interests vigorously, I have always done so in a spirit of cooperation and professionalism towards opposing counsel.

While I and the other counsel for dealers strongly advocate a separate Dealer Track working in conjunction with consumer counsel, with myself as Co-Lead of the Dealer Track, I am prepared to represent dealer interests in whatever capacity the Court sees fit, either as Co-Lead of a separate dealer committee, or as a designated dealer member of an overall leadership structure.

Your Honor, I do not envy the task before the Court - choosing which of the many qualified applicants are best suited to lead this important litigation. However, with respect to the Dealer Track, the decision should be much simpler. The very capable group of lawyers representing dealer plaintiffs have agreed to work together to advance the interests of their clients (and those similarly situated). In the absence of a known objection to their appointment by anyone (particularly those representing dealer plaintiffs), their request to lead the Dealer Track should be granted. For my part, it would be a true honor to serve as Co-Lead Counsel of the Dealer Track, an honor that will never be taken for granted. Simply put, this case will be my highest priority until its resolution.

Respectfully,



Arthur M. Murray

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